

ANTHONY THOMAS
WENDI THOMAS
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Debtors In Pro Per

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
ANTHONY THOMAS and WENDI
THOMAS

Debtors,

Case No.: BK-N-14-50333-BTB
CHAPTER 7

EX PARTE APPLICATION FOR
ORDER CONTINUING HEARING
ON TRUSTEE'S MOTION FOR
ORDER APPROVING COMPROMISE
AND SETTLEMENT AGREEMENT
SCHEDULED FOR FEBRUARY 25, 2015

Debtors Anthony Thomas and Wendi Thomas respectfully apply to this Court for an *ex parte* order continuing the hearing on the Trustee's Motion for Order Approving Compromise and Settlement Agreement from February 25 2015 to March 11, 2015 or as soon thereafter as the Court may hear the motion.

This application is supported by the following Declaration of Anthony Thomas.

DECLARATION OF ANTHONY THOMAS

I, Anthony Thomas, declare as follows:

1. I am one of the Debtors in the above captioned proceeding. The other Debtor is my wife Wendi. This declaration is submitted on behalf of both Debtors.

1 2. The Trustee has moved for an order allowing her to settlement a legal malpractice
2 action pending in California. We respectfully request that this Court continue the hearing for
3 two weeks so that we can file our opposition and have the motion heard on the merits. I have
4 requested that the Trustee and/or her attorney stipulate to a two week continuance, but have not
5 received a response.
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7 3. My wife and I were surprised to receive the Trustee's motion. If fact, I was
8 shocked. After the Trustee was appointed and given the fact that the stay had specifically been
9 lifted in connection with this case, I asked the Trustee how she planned to proceed with this
10 case and the three other matters that I have pending in California. She advised me on more
11 than one occasion that the estate was abandoning the cases. Based on her representations, I
12 have been prosecuting all of the cases myself, including the payment of substantial costs. In the
13 malpractice case, I recently paid over \$4,000.00 in arbitration fees. Now the Trustee seeks to
14 settle the case for \$2,000.00. The settlement agreement includes an express provision allowing
15 Defendant William McGrane to continue the adversary proceeding that he file against me for
16 malicious prosecution while settling the case out from under me.
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19 4. As to this relief sought in this application, on Friday, February 20, 2015, I realized
20 that I had mis-calendared the hearing date on the Trustee's motion, as well as the hearing date on
21 a motion filed by John Beach to unseal records previously sealed by this Court. To my chagrin,
22 I learned that I had missed the Beach hearing altogether (it was heard on February 10, 2105) and
23 that the Trustee's motion was scheduled for February 25, 2105, not March 17, 2015, as I had
24 marked on my calendar. I inadvertently had the Beach motion to unseal documents calendared
25 for February 25, 2015 and had the Trustee's motion calendared for March 17, 2015. There are
26 two other motions scheduled for March 17, 2015, which contributed to my confusion.
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1 5. In any event, since last July I have been working a job where I am out of town
2 for 12 or 19 days straight, home for two days and then gone again for another 12 or 19 day
3 period. I am currently working in Elko, Nevada and had been on the job site from February
4 8, 2015 to February 20, 2015. Since I had this past Saturday and Sunday off, I had planned on
5 going through the Trustee's motion, gathering together the paperwork necessary to oppose it, and
6 starting the opposition itself.
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8 6. When I realized that I had mis-calendared this motion and had missed the Beach
9 motion, I immediately wrote to the Trustee and her attorney requesting a two week continuance
10 of the hearing date.
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12 7. I attempted to contact the Trustee and her attorney by phone today. I never
13 reached the Trustee. I did speak with Mr. Hartman's assistant this morning who confirmed that
14 their office had received my email request for a continuance, but were unsure if they could speak
15 or respond directly to me since I had recently retained counsel. When I did not hear back from
16 their office, I called again and Mr. Hartman's assistant indicated that she had confirmed that my
17 attorney was not representing me in connection with this motion and that Mr. Hartman would be
18 getting back to me. Ultimately, I spoke with Mr. Hartman late this afternoon and he indicated
19 that he needed to speak to the Trustee before giving me a decision. I have not heard back for
20 him or the Trustee. Accordingly, this ex parte application is being filed. I am also filing the
21 opposition to the motion itself.
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23 8. It is respectfully requested that the hearing on the Trustee's motion be continued
24 until March 11, 2105 or as soon thereafter as the Court may hear the same so that the Debtors'
25 opposition may be filed and fully considered.
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3 I declare under penalty of perjury under the laws of the United States of America and the
4 State of Nevada that the foregoing is true and correct and that this declaration is executed this
5 23rd day of February 2015.
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9 ANTHONY THOMAS
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PROOF OF SERVICE BY MAIL/ELECTRONIC TRANSMISSION/FACSIMILE

I am employed in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1110 North First Street, San Jose, California, 95112. I am readily familiar with processing correspondence and documents for mailing with the United States Postal Service. On **December 14, 2011** I placed with the United States Postal Service as well as transmitted via facsimile, a true and correct copy of the following document(s):

EX PARTE APPLICATION FOR ORDER CONTINUING HEARING ON TRUSTEE'S MOTION FOR ORDER APPROVING COMPROMISE AND SETTLEMENT AGREEMENT SCHEDULED FOR FEBRUARY 25, 2015

PROPOSED ORDER

in a sealed envelope, postage fully paid, addressed as follows:

Jeffrey L. Hartman, Esq.
Hartman & Hartman
510 West Plumb Lane, Suite B
Reno, NV 89509 Email: notices@bankruptcyreno.com

In addition to mailing, I served a true and correct copy of the document stated above by electronic transmission (email) to the addresses stated. No error was reported regarding the facsimile and/or email transmission.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed this 24th day of February 2015.

Tracey McCarroll